

**STATE OF VERMONT  
GREEN MOUNTAIN CARE BOARD**

In re: Application of	)	
Coleen Condon Kohaut and	)	GMCB-012-15con
Callie Kohaut to Purchase	)	
Equity Interests of	)	
Franklin County Rehab Center, LLC	)	
	)	

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**STATEMENT OF DECISION AND ORDER**

Introduction

Coleen Condon Kohaut and Callie Kohaut (the applicants or the purchasers) seek a certificate of need (CON) approving the purchase of the remainder of equity interests in Franklin County Rehab Center, LLC, which operates Franklin County Rehab Center, a skilled nursing facility in St. Albans, Vermont.<sup>1</sup> The applicants currently own one percent of the facility; the other 99 percent are owned by Philip Condon (74 percent), and the Tressa Condon Trust (25 percent).

For the reasons outlined below, we approve the application.

Procedural Background

On September 2, 2016, the applicants filed a certificate of need application with the Green Mountain Care Board. After public notice, the Board granted the applicants expedited review of the project pursuant to 18 V.S.A. § 9440(c)(5). The Board requested additional information from the applicants on October 17, 2016. The applicants provided responses to the request for additional information on November 3, 2016. The application was closed on November 30, 2016.

Findings of Fact

1. Franklin County Rehab Center is a 64-bed skilled nursing facility in St. Albans. It is currently jointly owned by Philip Condon (74 percent), the Tressa Condon Trust (25 percent) and Coleen Condon Kohaut (one percent). Application (App.) at 1.

2. Philip Condon is Coleen Condon Kohaut's father, and Tressa Condon, settlor of the Tressa Condon Trust, is Coleen's late mother. The State of Vermont Department of Vermont Health Access has determined that because the pending transfer is between family members, no nursing home transfer tax will be due on this transaction. App. at Attachment B.

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<sup>1</sup> Franklin County Rehab Center, LLC, and the skilled nursing facility it operates, will be referred to collectively as Franklin County Rehab.

3. Coleen Condon Kohaut has been a licensed Nursing Home Administrator since 2003 and has served as Administrator of Franklin County Rehab with her father, Philip Condon, since 2010. Coleen grew up in the nursing home industry and has been working professionally in long term care with her father and late mother, Tressa Condon, a registered nurse and Nursing Home Administrator, since 1998. App. at 5.

4. Callie Kohaut has twenty years of experience in the design-build and contracting field and experience in financial management. App. at 5. Coleen Kohaut and Callie Kohaut together own and operate Holiday House Residential Care Home, a 40-bed Enhanced Residential Care Home, and Redstone Villa (now known as The Villa Rehab), a skilled nursing facility that they purchased in December 2015. App. at 1, 5.

5. The facilities operated by Coleen and Callie Kohaut provide consistently high quality services and continuum of care options for the community. Following the purchase of Redstone Villa in 2015, the facility's Centers for Medicare & Medicaid Services (CMS) star rating<sup>2</sup> improved from two stars to four. App. at 5. Holiday House Residential Care Home provides an alternative to the nursing home level of care through Vermont's Choices for Care Medicaid Waiver and accepts assisted community care services Medicaid residents. App. at 5. Redstone Villa and Holiday House both were found deficiency free in their most recent surveys from the Vermont Department of Disabilities, Aging and Independent Living (DAIL), Division of Licensing and Protection (DLP). App. at Attachments D and E.

6. Franklin County Rehab is currently a CMS five-star rated facility and was recognized by U.S. News & World Report as among its "2014 Best Nursing Homes." The facility received an American Health Care Association Quality Award for reduction in use of anti-psychotic medication and re-hospitalization rates below national average. App. at 5. In June 2016, the facility received a deficiency free survey from DLP. App. at Attachment C.

7. Coleen Kohaut, as a current owner and Administrator, intends to continue to implement the same operational philosophy at Franklin County Rehab after the transfer of ownership of the facility. There will be no material changes to the facility's staffing, organizational structure, bed capacity, or operations. App. at 6.

8. The applicants anticipate that the facility will maintain occupancy at over 92 percent. App. at 13. They do not plan any formal construction or changes to the physical building layout. App. at 3.

9. The facility purchase price is \$5,940,000, plus 99 percent of current assets, minus 99 percent of current liabilities, to be calculated by agreement on the closing date of the purchase. The purchase price will be paid as follows: 1) a gift from Philip Condon to Coleen Kohaut and Callie Kohaut in the amount of \$600,000 each, for a total gift of \$1.2 million; 2) a promissory note from the purchasers in favor of Mr. Condon in the amount of \$3,543,030.32; and 3) a promissory note from the purchasers in favor of the Tressa Condon Trust in the amount of \$1,196,969.68. App. at Attachment A.

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<sup>2</sup> Created in 2008, the Centers for Medicare & Medicaid Services (CMS) ratings are intended to help consumers select and compare Medicare- and Medicaid-certified skilled nursing facilities.

10. A letter dated May 24, 2016 from Commissioner Steven Costantino of the Department of Vermont Health Access (DVHA), to Mr. Condon, confirmed that no nursing home transfer tax, *see* 32 V.S.A. § 9531, is required for this transaction. App. at Attachment B.

11. The applicants project profits of \$166,538 in 2016, \$236,275 in 2017, \$366,509 in 2018, and \$371,200 in 2019. App. at 13 and Attachment O. Even if profits are lower than projected, the applicants have demonstrated that they are sufficiently capitalized and insured to cover shortfalls and to protect the facility's residents. App. at Attachment O, Attachment Q, and Attachments A1-A4 (Confidential Financial Statements).

12. DAIL has provided the Board written confirmation that the facility's 64-beds are needed to meet community need and supports the transfer, subject to the Board's approval of this CON.

#### Standard of Review

Vermont's certificate of need process is governed by 18 V.S.A. §§ 9431-9446 and Green Mountain Care Board Rule 4.000: *Certificate of Need*. The applicants bear the burden to demonstrate that each of the criteria set forth in 18 V.S.A. § 9437(1)-(8) is met. Rule 4.000, §4.302(3).

#### Conclusions of Law

Section 9437 of Title 18 contains criteria that must be satisfied before the Board may grant an applicant a certificate of need. Here, the applicants have demonstrated that they meet each of the relevant criteria, which we address in turn.

Pursuant to the first criterion, we conclude that the application is consistent with the health resource allocation plan (HRAP). The HRAP, last published in 2009, identifies needs in Vermont's health care system, resources to address those needs, and priorities for addressing them on a statewide basis. *See* 18 V.S.A. § 9437(1). Applicable to this transfer, the applicants are sufficiently capitalized, have the support of DAIL, and have provided assurances of quality care. Findings ¶¶ 5, 6, 9, 11, 12.

Pursuant to the second criterion, 18 V.S.A. § 9437(2), the applicants have shown that the cost of the project is reasonable, that they can sustain any financial burden likely to result from the project, that costs of care will not unduly increase, and that less expensive alternatives are not feasible or appropriate. The application is for a family transfer of the balance of interest in the facility from father to daughter and daughter's spouse. The applicants currently operate the facility with the current owner and there will be no changes to the operation of the facility due to transfer of ownership. Findings ¶¶ 3, 5, 6, 7, 8, 9.

Pursuant to the third criterion, the applicants have demonstrated a need for this project that is appropriate that they provide. 18 V.S.A. § 9437(3). DAIL has confirmed that the 64-bed facility is needed in the communities it serves. Finding ¶ 12. The applicants have over twenty years of experience in the field of long-term care and one applicant is already serving as Nursing

Home Administrator of the facility, which consistently has an overall five-star rating from CMS. Findings ¶¶ 3, 5, 6. The applicants own and co-manage The Villa Rehab, a skilled nursing facility, and Holiday House, a residential care facility, both in St. Albans. The applicants have demonstrated their abilities to improve, operate and maintain high-quality care facilities, including raising the star rating of The Villa Rehab from two stars to four in their first year of assuming ownership. Findings ¶¶ 4, 5.

The applicants have satisfied the fourth criterion, 18 V.S.A. § 9437(4), by demonstrating that the quality of health care will increase as a result of the project. Transfer of ownership from father to daughter, who is already operating the facility with her spouse as joint owner, and serving as the facility's Nursing Home Administrator, will provide continuity in the quality of services already being provided to the facility's residents. Findings ¶¶ 1, 2, 3, 4, 6, 7.

We further conclude that the applicants have shown that the project will not adversely affect other services offered by the applicants and that the project serves the public good. 18 V.S.A. § 9437(5), (6). For many years, the applicants, and more specifically Coleen Kohaut, have successfully operated nursing home and residential care facilities with a proven track record and commitment to the community. Findings ¶¶ 3, 4, 5, 6, 7. The 64-bed facility, which will continue to operate at near ninety percent capacity, is needed to ensure that sufficient skilled nursing facility services are available close to home for the population in this service area. Findings ¶ 8, 12.

Last, the applicants have satisfied the seventh and eighth statutory criteria. 18 V.S.A. § 9437(7), (8). The applicants have affirmed that there will be no material changes to operations of the facility, and the Board infers this to mean that the facility makes no changes to access to transportation services. Conformance with the health information technology plan is not relevant to this application.

We therefore conclude that the applicants have demonstrated that each applicable statutory criterion has been met, and issue a certificate of need on this date.

#### Order

Pursuant to 18 V.S.A. § 9440(d), the Green Mountain Care Board approves the application, and a Certificate of Need shall issue.

**SO ORDERED.**

Dated: December 23, 2016 at Montpelier, Vermont

s/ Alfred Gobeille )  
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s/ Cornelius Hogan )  
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s/ Jessica Holmes )  
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s/ Robin Lunge )  
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s/ Betty Rambur )

GREEN MOUNTAIN  
CARE BOARD  
OF VERMONT

Filed: December 23, 2016

Attest: s/ Marisa Melamed  
Green Mountain Care Board  
Health Policy Analyst